

November 27, 2024

Shane Potter
Clackamas County Code Enforcement
150 Beaver Creek Road
Oregon City, OR 97045

Re: Philip & Staci Dalton (Code Enforcement Hearings Officer File No. V0021423)

Dear Mr. Potter:

On behalf of Philip Dalton and Staci Dalton ("Property Owner"), our office submits this letter with attached exhibits in the above captioned matter. Please find the following materials enclosed with this letter:

- Exhibit A - August – September 2023: Correspondences notifying Property Owner and Property Owner's counsel regarding County's pause in enforcement action pending land use review process;
- Exhibit B - August 10, 2024: Correspondence from Shane Potter to Complainant confirming that the County's practice is to pause enforcement pending land use review which "includes the appeals process";
- Exhibit C - September 23, 2024: County's letter to Property Owner regarding the sudden change in enforcement practice; and
- Exhibit D - November 14, 2024: County counsel providing vague and unclear reasons for the sudden change in enforcement practice.

Please place this letter and attachments before the Code Enforcement Hearings Officer. Thank you for your courtesies in this matter.

Sincerely,



Nikesh Patel
Enclosures

cc: Philip & Staci Dalton – (with enclosures via email)

From: Potter, Shane
Sent: Wednesday, August 23, 2023 11:39 AM
To: 'Peter Livingston'
Subject: RE: Property at 29335 S Beaver creek Rd, Mulino

Thank you I will send that letter out to you once I complete it

Sincerely,

Shane Potter
Code Enforcement Specialist
Code Enforcement
Department of Transportation and Development
150 Beaver creek Rd., Oregon City, OR 97045
Primary Phone: 503-742-4465
spotter@clackamas.us
www.clackamas.us
Hours: M-F from 7:30 am until 4:00 pm (Lobby closed to the public on Fridays)

Were you happy with the service you received today?



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From: Peter Livingston <PLivingston@dunncarney.com>
Sent: Wednesday, August 23, 2023 11:33 AM
To: Potter, Shane <SPotter@clackamas.us>
Cc: Damien R. Hall <DHall@dunncarney.com>; sageandsocial.venue@gmail.com
Subject: Property at 29335 S Beaver creek Rd, Mulino

Warning: External email. Be cautious opening attachments and links.

Dear Mr. Potter:

Thank you for talking with me just now. This email confirms that the County Code Enforcement will stay enforcement proceedings so long as the owners' land use application is in process. You will send me copies of correspondence and other relevant documents in the future.

Best regards.

Peter Livingston
Contract Attorney
plivingston@dunncarney.com
Direct 503.417.5477 | Cell 360.213.4661 | Fax 503.224.7324 | DunnCarney.com



Dunn Carney Allen Higgins & Tongue LLP
Suite 1500, 851 SW Sixth Avenue | Portland, OR 97204
Member of Meritas Law Firms Worldwide Meritas.org

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

From: [Peter Livingston](#)
To: [Potter, Shane](#)
Subject: RE: Property at 29335 S Beaver creek Rd, Mulino
Date: Wednesday, September 20, 2023 12:59:15 PM
Attachments: [image001.jpg](#)

Warning: External email. Be cautious opening attachments and links.

Thank you. You have my attention! I will follow up and let you know the status.

Peter

Peter Livingston
Contract Attorney
plivingston@dunncarney.com
Direct 503.417.5477

From: Potter, Shane <SPotter@clackamas.us>
Sent: Wednesday, September 20, 2023 12:48 PM
To: Peter Livingston <PLivingston@dunncarney.com>
Subject: RE: Property at 29335 S Beaver creek Rd, Mulino

Hi Peter,

I wanted to send a copy of the violation letter to you. As we discussed we will stay enforcement with a couple exceptions. One if they are not holding events or advertising right now or if they complete the application by the deadline listed in the letter since there is currently not a completed application submitted. Feel free to contact me with any questions you may have.

Sincerely,

Shane Potter
Code Enforcement Specialist
Code Enforcement
Department of Transportation and Development
150 Beaver creek Rd., Oregon City, OR 97045
Primary Phone: 503-742-4465
spotter@clackamas.us
www.clackamas.us
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September 20, 2023

Violation No.:V0021423

Philip Jacob & Staci Dalton
29335 S Beaver creek Rd.
Mulino, OR 97042

RE: CLACKAMAS COUNTY CODE SECTIONS ADDRESSED IN VIOLATION: No.:
V0021423

1. CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE TITLE 12 – SECTION 400 NATURAL RESOURCE DISTRICTS – SECTION 407 AG/FOREST DISTRICT (AG/F) – 12.407.04 USES PERMITTED

SITE ADDRESS: 29335 S Beaver creek Rd., Mulino, OR 97042
LEGAL DESCRIPTION T4S, R3E, SECTION 31, TAX LOT 00608

Dear Philip & Staci Dalton,

I am sending this violation notice as a formality. I see that a Land Use file has been applied for. File Z0123-23 is an application to host events. However it currently shows an incomplete letter dated April 12, 2023. When an application is made to the Planning and Zoning Division we place our code enforcement file on hold until the review is completed. However when a violation exists there are requirements for time frames to complete certain tasks. I have placed this information in the text below. To abate these violations you must complete the following **NO LATER THAN: October 20, 2023**

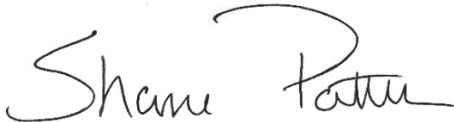
Hosting Events without Land Use Approval

1. Clackamas County received complaints about events occurring on site. You currently have an incomplete application to host events with the Planning and Zoning Division (File Z0123-23). To abate the violations please address the options below. We encourage you to reach out to the Clackamas County Planning and Zoning Division at 503-742-4500 or by email at zoninginfo@clackamas.us to discuss your options or determine if other options are available that are not listed below.
 - a. If you are not currently holding events and/or advertising further enforcement will not occur until you resume activities or receive your Land Use approval, and
 - b. If you are still holding events and/or advertising you remain in violation and will need to provide a completed application to the Planning and Zoning Division by the deadline listed in this letter. Failure to do so may result in further enforcement action.

If you have questions concerning permit requirements, online submittal process, or land use process, please contact the department listed above at the phone number or email listed, or stop by the offices located at 150 Beaver Creek Rd., Oregon City, OR 97045, Monday through Thursday between the hours of 8:00 a.m. and 4:00 p.m. The offices are closed on Fridays

ITEMS INCLUDED IN THIS PACKET

- Violation Letter
- Required Notice of Fines and Penalties

A handwritten signature in black ink that reads "Shane Potter". The signature is written in a cursive style with a large, looping initial "S".

Shane Potter
Code Enforcement Specialist
Clackamas County Code Enforcement
Phone: 503-742-4465
spotter@clackamas.us

Important Notices

1. **Administrative Compliance Fees.** It is important that you contact the Code Enforcement Section to resolve the violations described in the enclosed letter. **An administration compliance fee of \$75 will now be assessed monthly until the violations are abated.**
2. **Failure to resolve those violations may result in one or more of the following:** (1) a citation and fine, and (2) referral of this matter to the County Code Enforcement Compliance Hearings Officer.
3. **Request for a Hearing:** If you dispute the existence of the violations described in the enclosed letter you may request a hearing before the Hearings Officer by sending a written request for a hearing, including your name and address to: Code Enforcement Section, 150 Beaver Creek Rd., Oregon City, OR 97045, or at codeenforcement@clackamas.us.
4. **Potential Fines and Penalties:** The Clackamas County Code provides for Citation fine amounts of up to \$500 and additional civil penalties imposed by the Hearings Officer of up to \$3,500 for each day the County verifies the noncompliance. Fine amounts and civil penalties may be assessed for each cited violation and may be assessed separately against each named party. In addition, the Hearings Officer may order the violation to be abated by the County at the expense of the property owner(s) and responsible parties.
5. **Voluntary Compliance:** Clackamas County encourages voluntary compliance with code violations to support a safe and healthy community for all. Please note that when a property owner works cooperatively with the County to resolve a confirmed code enforcement violation, the County may in its discretion waive all or part of the \$75 per month administrative fee.
6. **Non-Compliance may result in a lien upon your property:** Fines and costs are payable upon the effective date of the final order declaring the fine and costs. Fines and costs under this Chapter are a debt owing to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines or costs are not paid within 60 days after payment is ordered, the County may file and record the order for payment in the County Clerk Lien Record.
7. **Final Order may be enforced in Circuit Court:** Also, be advised that non-compliance with a Hearings Officer's Order may result in the matter being referred to County Counsel for legal action in Circuit Court which may result in additional penalties or other sanctions.
8. **Recurrences will result in additional Citations:** Finally, recurrences of abated violations may result in the issuance of a citation without prior notice.

From: [Potter, Shane](#)
To: [REDACTED]
Subject: RE: Aug 10 Sage and Social
Date: Monday, August 12, 2024 9:06:00 AM
Attachments: [image002.jpg](#)

[REDACTED]

The policy is to place a file on hold while they go through the land use process and this includes the appeals process. I have, however forwarded your concerns to management for their review.

Sincerely,

Shane Potter
Code Enforcement Specialist
Code Enforcement
Department of Transportation and Development
150 Beaver Creek Rd., Oregon City, OR 97045
Primary Phone: 503-742-4465
spotter@clackamas.us
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[REDACTED]

Sent: Sunday, August 11, 2024 7:50 AM
To: Potter, Shane <SPotter@clackamas.us>
Subject: Aug 10 Sage and Social

Warning: External email. Be cautious opening attachments and links.

CP# [REDACTED]

Another event. Approx 150 people. The music is loud. [REDACTED]. We live in forest Ag zones, not concert zones.

Please find attached a sample of the music noise this evening.

I understand they have appealed. However, what is to be done in the meantime? They are illegal. What is the county's policy? Do I go to the county attorneys and ask? If so, which attorney?



September 23, 2024

Violation No.:V0021423

Philip Jacob & Staci Dalton
29335 S Beaver creek Rd.
Mulino, OR 97042

RE: CLACKAMAS COUNTY VIOLATION NO. V0021423

CLACKAMAS COUNTY CODE SECTIONS VIOLATED:

1. CLACKAMAS COUNTY CODE TITLE 12: ZONING AND DEVELOPMENT ORDINANCE – SECTION 407.04: USES PERMITTED

SITE ADDRESS: 29335 S Beaver creek Rd., Mulino, OR 97042
 LEGAL DESCRIPTION T4S, R3E, SECTION 31, TAX LOT 00608

Dear Philip & Staci Dalton,

A previous Violation Letter was mailed on September 20, 2023. The Violation Letter stated our conclusion that commercial activities (holding events) taking place on the property constitute a violation, and it listed options for abating the violation, including obtaining land use approval. We have concluded that the use continues on the property and that, while you have begun the land use process, you do not currently have land use approval. Therefore, the violation continues. **Due to a change in County practice,** we will continue with the enforcement of this file unless you abate the violation **NO LATER THAN: October 9, 2024.** You must complete the following to comply:

1. Move the use to an approved parcel;
2. Obtain land use approval; or
3. Pause the use until you obtain land use approval.

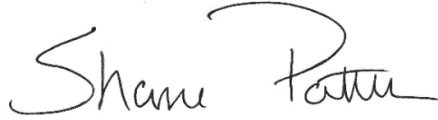
If you have questions concerning permit requirements, the online submittal process, or land use process, please contact the department listed below at the phone number or email listed, or stop by the offices located at 150 Beaver creek Rd., Oregon City, OR 97045, Monday through Thursday between the hours of 8:00 a.m. and 4:00 p.m. The offices are closed on Fridays

CONTACT INFORMATION

Building Codes Division (Permitting)	503-742-4240	bldservice@clackamas.us
Planning and Zoning	503-742-4500	zoninginfo@clackamas.us
Shane Potter, Code Enforcement	503-742-4465	spotter@clackamas.us

ITEMS INCLUDED IN THIS PACKET

- Violation Letter
- Required Notice of Fines and Penalties

A handwritten signature in black ink that reads "Shane Potter". The signature is written in a cursive style with a large, looping initial "S" and "P".

Shane Potter
Code Enforcement Specialist
Clackamas County Code Enforcement
Phone: 503-742-4465
spotter@clackamas.us

Important Notices

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2. **Failure to resolve those violations may result in one or more of the following:** (1) a citation and fine, and (2) referral of this matter to the County Compliance Hearings Officer.
3. **Request for a Hearing:** If you dispute the existence of the violations described in the enclosed letter, you may request a hearing before the Hearings Officer by sending a written request for a hearing, including your name and address, to Code Enforcement Section, 150 Beaver Creek Rd., Oregon City, OR 97045, or at codeenforcement@clackamas.us.
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5. **Voluntary Compliance:** Clackamas County encourages parties to voluntarily come into compliance with the code to support a safe and healthy community for all. Please note that, when a property owner works cooperatively with the County to resolve a confirmed code violation, the County may, in its discretion waive all or part of the \$75 per month administrative compliance fee.
6. **Non-compliance may result in a lien upon your property:** Fines, penalties, and fees are payable upon the effective date of the final order imposing them. Such fines, penalties, and fees are a debt owing to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other debt. If fines, penalties, and fees are not paid within 60 days after payment is ordered, the County may file and record the order for payment in the County Clerk Lien Record.
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8. **Recurrences will result in additional citations:** Finally, recurrences of abated violations may result in the issuance of a citation without prior notice.

Archived: Thursday, November 14, 2024 1:57:27 PM

Subject: RE: Code Enforcement Policy Change

Importance: Normal

Sensitivity: None

From: Huegel, Caleb <CHuegel@clackamas.us>

Sent: Thursday, November 14, 2024 11:48 AM

To: Damien R. Hall <DHall@dunncarney.com>

Subject: RE: Code Enforcement Policy Change

Damien,

It is my understanding that the change in practice from pursuing code enforcement proceedings unless the respondent has a pending land use application to pursuing code enforcement proceedings unless the respondent has a valid land use approval was a collaborative decision made by Clackamas County on behalf of the Code Enforcement program. It is my understanding that that change was made in August or September of this year.

Caleb

Caleb Huegel, Assistant County Counsel

Clackamas County Office of County Counsel

2051 Kaen Road, Oregon City, OR 97045

503-655-8362

Hours of Operation: Mon – Thu, 7 a.m. – 6 p.m.

www.clackamas.us

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From: Damien R. Hall <DHall@dunncarney.com>

Sent: Thursday, November 7, 2024 9:15 AM

To: Huegel, Caleb <CHuegel@clackamas.us>

Subject: Code Enforcement Policy Change

Warning: External email. Be cautious opening attachments and links.

Hello Caleb,

Please point me in the direction of county staff that can speak to the process, timing, and considerations for the code enforcement policy change that resulted in the attached notice of hearing. Thank you.

Damien R. Hall

dhall@dunncarney.com

Direct 503.306.5305 | Fax 503.224.7324 | DunnCarney.com



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